

# Soldiers' and Sailors' Civil Relief Act of 1940

## A Brief History



*American Forces Information Service*

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**A**n active duty soldier is transferred to a new duty station that is not in his state of residence. When he takes up residence in the city outside the installation, he is informed he must have a city sticker on his car — cost: \$25. While paying the fee, the city clerk mentions the soldier needs to pay personal property tax on his car — another \$300. The soldier grudgingly pays the \$325 assessed fees. He just paid \$324 too much, not knowing he was only legally responsible for a \$1 administrative fee.

A pilot for a major airline is called to active duty for a six-month deployment to the Persian Gulf to fly missions over the Southern No-Fly Zone. She leaves behind a family, a large mortgage and plenty of credit card debt. Equally important, she leaves behind a salary her active duty status pay could not begin to match. But when she arrives home six months later, there are no overdue bills, her mortgage is up to date, and her credit rating is as good as the day she left.

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The difference between the experience of the soldier transferred overseas and the pilot sent to the Persian Gulf is that the pilot took advantage of a special package of protections available to all service members called the Soldiers' and Sailors' Civil Relief Act of 1940.

You may not know it by its formal title. Indeed, it's quite possible you don't know it exists at all. But if you are a service member on active duty, you are under its umbrella of protection from the day you take the oath to the day you leave military service.

It is one of the most comprehensive and enduring packages of protection Congress has ever enacted on service members' behalf. If you have a

credit card or a mortgage, you have the potential to benefit from the act. If you're ever involved in any type of civil litigation, you will find the act's umbrella of protection extends to that as well.

"Service members should have a basic understanding of the depth of protection and their rights under this act," said Lt. Col. Patrick Lindemann, deputy director for legal policy in DoD's Office of the Undersecretary of Defense for Personnel and Readiness. "The act does a great job of protecting the rights of service members. It's a significant law for service members, especially for reserve component service members called to active duty. Every service member needs to be aware that the act exists so they don't potentially miss out on its protections.

Any member of the uniformed services serving on active duty is covered under the Act. This includes reserve component personnel called to active duty, Coast Guard personnel, as well as officers of the Public Health Service and the National Oceanic and Atmospheric Administration.

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Despite the act's official title dating it to 1940, its origins can be traced as far back as the Civil War when Congress passed a total moratorium on civil actions brought against Union soldiers and sailors. In basic terms, this meant that any legal action involving a civil matter was put on hold until after the soldier or

sailor returned from the war. Examples of civil matters included breach of contract, bankruptcy, foreclosure or divorce proceedings.

Congress' intent in passing the moratorium was to protect both national interests and those of service members. First, Congress wanted service members to be able to fight the war without having to worry about problems that might arise at home. Secondly, because most soldiers and sailors during the Civil War were not well paid, it was difficult for them to honor their pre-service debts, such as mortgage payments or other credit.

Congressional concern about protecting the rights of service members was raised again during World War I when the Soldiers' and Sailors' Civil Relief Act of 1918 was passed. Like the Civil War-era moratorium, the 1918 legislation was designed to protect the rights of service members while they were serving in the war. Although the 1918 Act did not include a total moratorium on civil actions, it did protect service members from such things as repossession of property, bankruptcy, foreclosure or other such actions while they were in harm's way.

The 1918 Act stayed in effect until shortly after World War I, when it expired.

The present-day statute, essentially a reenactment of the 1918 law, was passed in 1940 to protect the rights of the millions of service members activated for World War II. The major difference between it and the 1918 version, other than minor modifications, was there was no provision for the Act to expire, as it did after World War I. Thus, since 1940, service members have received uninterrupted coverage under the Act. And indeed, congressional commitment and support for the Act has remained so strong, the Act has been amended more than 11 times since 1940 to keep pace with a changing military and changing world, with the last amendments added in 1991 during the Gulf War.

